



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Request for Authorization of the Administrator to Travel on Government
(Military) Aircraft

FROM: Kevin Minoli
Acting General Counsel

TO: Ryan Jackson
Chief of Staff

This memorandum provides approval for the Administrator and accompanying EPA staff to travel on a military aircraft operated by the United States Department of the Air Force. The travel will occur today, June 7, 2017.

The Administrator was directed by the President to attend infrastructure related events on the afternoon of Wednesday, June 7, 2017. Prior to receiving this directive, the Administrator was already scheduled to fly to Italy at 7:35 p.m. this evening in order to attend a multi-day series of meetings and roundtable discussions related to environmental innovation and other topics according to the attached "Notional Itinerary for EPA Administrator Mission to Italy." As explained in the June 6 and June 7 memoranda from the Assistant Deputy Chief of Staff and the Deputy Chief of Staff respectively, the Administrator's original travel itinerary had to be changed to depart for Italy from Cincinnati instead of Washington, D.C. given the need to immediately travel to Cincinnati to support Presidential event. The Administrator has a 3-4 hour time window to travel from Cincinnati to John F. Kennedy International Airport (JFK) in order to make the 7:35 p.m. flight to Italy scheduled for this evening. I understand from the information provided that there are no commercial flights leaving Cincinnati for JFK during the 3-4 hour available travel window that will get the Administrator to JFK in time to make the flight to Italy.

EPA's use of charter services is governed by OMB Circular A-126, OMB Bulletin 93-11, and the Federal Travel Regulations at 41 CFR parts 301-10 and 301-70. Under these policies and procedures, EPA employees may be authorized to travel on government aircraft in three situations:

- a) Mission Requirements. The activities undertaken on the trip are operational functions that are necessary to discharge an agency's official responsibilities. Examples include transportation of troops or equipment, evacuation, intelligence gathering or counter

narcotics work, search and rescue, transportation of prisoners, and scientific applications such as research that requires the use of aircraft for experiments;

- b) Required Use. Travel via government aircraft is authorized if it is for the purposes of bona fide communications (e.g., 24-hour secure communications) or security reasons (e.g., highly unusual circumstances that present a clear and present danger) or exceptional scheduling requirements (e.g., a national emergency or other compelling operational considerations); or
- c) Other Official Travel. Official travel that does not qualify as a “mission requirement” or “required use” travel may be undertaken in a government aircraft in limited circumstances. EPA must that no commercial service is reasonably available to effectively fulfill its requirements (i.e., no commercial service must be able to meet the traveler’s departure and/or arrival times within a 24-hour period unless extraordinary circumstances justify a shorter period or that the actual cost of using a chartered aircraft is less than the cost of commercial airline service).

I considered this travel request under “required use” and “other official travel.” Regarding “required use”, OMB Circular A-126 states that a “required use” travel determination must be consistent with established agency policies for determining when such use is permitted. To the extent that EPA’s Travel Manual establishes such a policy, it states in relevant part:

...use of a federal government aircraft, chartered or federal government owned, must comply with the OMB Circular A-126. The EPA must need the service to fulfill a mission requirement, exceptional scheduling, communication or security requirements, or there is a substantial cost savings to the federal government.

According to information provided by the Director of Scheduling and Advance, there are no commercial flights available for the Administrator to take from Cincinnati during the 3-4 hour travel window that he has to arrive at JFK. The emergent need to travel with the President coupled with the lack of available commercial flights to get the Administrator to JFK in time to fly to Italy to begin a series of meetings constitutes exceptional scheduling requirements in accordance with the “required use” determination.

In order to establish use of a government aircraft for “other official use,” it must be determined that no commercial service is reasonably available to fulfill the agency’s requirements. This is generally established when there is no commercial service available to meet the traveler’s departure and/or arrival times within a 24-hour period unless extraordinary circumstances justify a shorter period. Here, the information provided for my review show that no commercial service is available to meet the agency’s travel need, which requires having the Administrator leave Cincinnati for JFK within the 3-4 hour available window.

Based on the information provided to me, I approve the use of government aircraft for the Administrator’s travel from Cincinnati to JFK on the basis of “required use” and “other official travel” This approval does not address the prudence of expending over \$35,000 for the flight.

Attachments